

Roll No.

NOV 2018

Total No. of Questions – 6

Final New Syllabus Total No. of Printed Pages – 16

Time Allowed – 3 Hours

Paper - 8
Indirect Tax Laws

Maximum Marks – 100

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Answers to questions are to be given only in English except in the case of candidates who have opted for Hindi Medium. If a candidate has not opted for Hindi Medium, his/her answers in Hindi will not be valued.

Question No. 1 is compulsory.

Candidates are also required to answer any **four** questions from the remaining **five** questions.

All questions should be answered on the basis of the position of GST law as amended up to 30-04-2018 and Customs law as amended by the Finance Act, 2017 and notifications and circulars issued till 30-04-2018.

The GST rates for goods and services mentioned in various questions are hypothetical and may not necessarily be the actual rates leviable on those goods and services. The rates of Customs duty are also hypothetical and may not necessarily be the actual rates. Further, GST compensation cess should be ignored in all the questions, wherever applicable.

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1. (a) M/s Jonty India Ltd. a manufacturer of heavy machines registered at Jaipur (Rajasthan) supplied one machine to M/s. Dhanuka Ltd. of Udaipur (Rajasthan) on 05-02-2018 under an invoice of the same date. Using the information given below, compute the value of the machine and the GST payable (CGST & SGST or IGST as the case may be) in cash for the month of February, 2018 by M/s Jonty India Ltd. with appropriate working notes. **10**

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Assume Rate of CGST, SGST and IGST on the machine to be 9%, 9% and 18% respectively.

Sl. No.	Particulars	Amount in ₹
(i)	The Basic price of the machine (exclusive of taxes and discount).	28,50,000
(ii)	Trade discount is allowed at 3% on the basic price and is shown in the invoice.	85,500
(iii)	Secondary packing (in iron sheets) charges for safe transportation of the machine on the request of buyer.	30,000
(iv)	Design and engineering charges of the machine.	90,000
(v)	Tax levied by Municipal Authority on the sale of the machine.	25,000
(vi)	Subsidy received by the supplier from the State Government to encourage manufacture of the machine.	80,000
(vii)	Pre-delivery inspection charges paid to an independent agency in terms of the agreement for supply. The amount was paid by M/s. Dhanuka Ltd.	22,000
(viii)	Interest amount paid by M/s Dhanuka Ltd. for delay in payment for the machine.	12,000
	Inward Supplies	
(i)	IGST paid on food items for consumption by employees working in the factory.	8,000
(ii)	SGST and CGST (₹ 15,000 each) paid on Electrical transformer used in the manufacturing process.	30,000

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Note : (i) M/s Jonty India Ltd. has no input tax credit balance at the beginning of February, 2018. All the other conditions necessary for availing the eligible input tax credit have been fulfilled.

(ii) There are no other transactions of supplies during the month of February, 2018.

(iii) M/s Jonty India Ltd. and M/s. Dhanuka Ltd. are not related persons.

(b) Chiku Traders is a registered supplier of plastic goods. On 10th April, 2018, Chiku Traders received an order from Neelu Traders for supply of a consignment of plastic goods. Chiku Traders gets the consignment ready by 15th April, 2018. The invoice for the consignment was issued the next day, 15th April, 2018. Neelu Traders collects the consignment from the godown of Chiku Traders on 25th April, 2018 and hands over the cheque towards payment on the same date. The said payment is entered in the books of accounts of Chiku Traders on 26th April, 2018 and amount is credited in their bank account on 27th April, 2018.

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Determine the time of supply of the plastic goods supplied by Chiku Traders to Neelu Traders as per the provisions of CGST Act, 2017.

(c) Jolly overseas Ltd. of Hyderabad has imported a machine from U.K (England) through the sea route by a vessel. The details of the import transaction are as follows :

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Sl. No.	Particulars	Amount in UK (£)
(i)	Cost of the machine at the factory of the exporter	20,000
(ii)	Transport charges from the factory of exporter to the port for shipment	600
(iii)	Handling charges paid for loading the machine on the ship at the port of exportation	500
(iv)	License fee relating to the imported goods payable by the importer as a condition of sale	900
(v)	Actual Freight charges from the port of export to the port of import are not ascertainable	—
(vi)	Actual insurance charges paid	200
(vii)	Landing charges paid at the place of importation are not ascertainable	—
(i)	Handling charges associated with the delivery of the imported goods at the place of importation	₹ 15,000

1	Bill of entry :-	Dated 21.01.2018 <u>Exchange rate on that day :-</u> (a) Notified by CBEC 1 UK £ = ₹ 101 (b) prescribed by RBI 1 UK £ = ₹ 100
2	Entry inward :-	Dated 26.01.2018 <u>Exchange rate on that day :-</u> (a) Notified by CBEC 1 UK £ = ₹ 102 (b) prescribed by RBI 1 UK £ = ₹ 103

Compute the assessable value of the machine (in rupees) for the purpose of levy of Customs Duty.

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2. (a) PQR Company Ltd., a registered supplier of Bengaluru (Karnataka), is a manufacturer of goods. The company provides the following information pertaining to GST paid on input supplies during the month of April, 2018 :

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Sl. No.	Items	GST paid in (₹)
(i)	Life Insurance premium paid by the company on the life of factory employees as per the policy of the company.	1,50,000
(ii)	Raw materials purchased for which invoice is missing but delivery challan is available.	38,000
(iii)	Raw materials purchased which are used for zero rated outward supply.	50,000
(iv)	Works contractor's service used for repair of factory building which is debited in the profit and loss account of company.	30,000
(v)	Company purchased the capital goods for ₹ 4,00,000 and claimed depreciation of ₹ 44,800 (@ 10 %) on the full amount of ₹ 4,48,000 under Income Tax Act, 1961.	48,000

Other Information :-

- (i) In the month of September, 2017, PQR Company Ltd. availed input tax credit of ₹ 2,40,000 on purchase of raw material which was directly sent to job worker's premises under a challan on 25-09-2017. The said raw material has not been received back from the Job worker up to 30-04-2018.
- (ii) All the above input supplies except (iii) above have been used in the manufacture of taxable goods.

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Compute the amount of net Input Tax Credit available for the month of April, 2018 with necessary explanations for your conclusion for each item. You may assume that all the other conditions necessary for availing the eligible input tax credits have been fulfilled.

- (b) Mr. Mahendra Sharma, an interior decorator registered at Ahmedabad (Gujarat), provided service to one of his clients XYZ Company Ltd., registered at Pune (Maharashtra). The provision of service was completed on 10-08-2018 and payment received was entered in the books of Mr. Mahendra Sharma on 11-08-2018. 5

With effect from 16/08/2018, applicable GST rate was increased from 5 % to 12%. However payment for the service received was credited in his bank account on 17/08/2018 and invoice for the same was raised on 23-08-2018.

Mr. Mahendra Sharma claimed that he is liable to pay IGST @ 5%. But the department took the view that he is liable to pay IGST @12%.

Examine the correctness of Mr. Mahendra Sharma's contention and determine the time of supply and applicable rate of tax as per the statutory provisions.

Would your answer undergo any change in the above case if the payment was credited to the bank account on 14-08-2018 instead of 17-08-2018 ?

Note : You may assume that all days are working days.

- (c) M/s Heeralal and Sons registered in Karnataka has opted to avail the benefit of composition scheme. It has furnished the following details for the tax period ended on 30-06-2018. 3

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S. No.	Items	₹
(i)	Taxable turnover of goods within the state	15,00,000
(ii)	Exempted turnover of goods within the state	17,00,000
	Total Turnover	32,00,000

Using the above information, calculate total GST (No need for bifurcation between CGST and SGST) to be paid by the firm for the tax period ended on 30-06-2018 in following independent situations :

(i) M/s Heeralal and Sons is a Manufacturer.
(ii) M/s Heeralal and Sons is a Trader.

Answer either (d) or (e) only. Both need not be answered.

- (d) Who can suspend/cancel the warehouse licence and on what grounds ?
What is the effect of suspension or cancellation on the warehouse and the goods in the warehouse ? Explain in brief with reference to provisions relating to cancellation of licence of Warehouse under section 58B of the Customs Act, 1962.

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OR

- (e) With regard to the powers of the Customs officers to draw samples under section 144 of the Customs Act, 1962, indicate
- The purposes for which samples can be drawn;
 - When can the samples be drawn;
 - The provisions for disposal of the samples after the purpose is over.

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3. (a) Pari Ltd. of Jodhpur (Rajasthan) is a registered manufacturer of cosmetic products. Pari Ltd. has furnished following details for the month of April, 2018 :

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S. No.	Particulars	₹
(A)	Receipts	
	Details of Sales	
	(i) Sales in Rajasthan	8,75,000
	(ii) Sales in States other than Rajasthan	3,75,000
	(iii) Export under bond	6,25,000
(B)	Payments	
(1)	Raw materials	
	(i) Purchased from registered suppliers located in Rajasthan	1,06,250
	(ii) Purchased from unregistered suppliers located in Rajasthan	37,500
	(iii) Purchased from Punjab from registered supplier.	1,00,000
	(iv) Integrated tax paid on Import from USA	22,732
(2)	Consumables purchased from registered suppliers located in Rajasthan including high speed diesel (Excise and Vat paid) worth ₹ 31,250 for running the machinery in the factory.	1,56,250
(3)	Monthly rent for the factory building to the owner in Rajasthan.	1,00,000
(4)	Salary paid to employees on rolls	6,25,000
(5)	Premium paid on life insurance policies taken for specified employees. Life insurance policies for specified employees have been taken by Pari Ltd. to fulfil a statutory obligation in this regard. The Government has notified such life insurance service under section 17(5)(b)(iii)(A). The life insurance service provider is registered in Rajasthan.	2,00,000
All the above amounts are exclusive of all kinds of taxes, wherever applicable. However, the applicable taxes have also been paid by Pari Ltd.		
The balance of Input Tax Credit (ITC) with Pari Ltd. as on 1 st April, 2018 is		
CGST ₹ 20,000		
SGST ₹ 15,000		
IGST ₹ 15,000		

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Assume CGST, SGST and IGST rates to be 9%, 9% and 18% respectively, wherever applicable.

Assume that all the other necessary conditions to avail the eligible input tax credit have been complied with by Pari Ltd., wherever applicable.

Compute eligible input tax credit and net GST payable (CGST and SGST or IGST as the case may be) by Pari Ltd. for the month of April, 2018.

- (b) On 25th August, 2017, M/s Agarwal & Agarwal Ltd., a registered supplier of textile products located in Bengaluru (Karnataka) purchased one machine for ₹ 12,39,000 including IGST, from one supplier of Maharashtra who issued invoice on the same date. M/s Agarwal & Agarwal Ltd. put the machinery to use on the same day and availed input tax credit for the eligible amount.

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M/s Agarwal & Agarwal Ltd. sold this machine after using the machine in the process of manufacture of taxable goods for ₹ 7,50,000 excluding IGST, to Mr. Suresh Kumar of Andhra Pradesh on 20th August 2018.

During purchase as well as sale of the machinery, the IGST rate applicable was 18%.

Is M/s Agarwal & Agarwal Ltd., required to pay GST ? If yes, calculate the amount of tax payable under GST Laws at the time of sale of the machine. Also briefly state the relevant statutory provisions.

Note : Assume that there was no change in legal position after August, 2017.

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- (c) The Settlement Commission settled a case relating to recovery of drawback. The Customs department contends that the recovery of duty drawback does not involve levy, assessment and collection of customs duty as envisaged under section 127A (b) of the Customs Act, 1962. Therefore Settlement Commission does not have jurisdiction to settle the case.

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Discuss with the help of the decided case law, if any, whether the Settlement Commission have jurisdiction to settle cases relating to the recovery of drawback erroneously paid by the Revenue ?

4. (a) Happy Ltd. located at Alwar (Rajasthan), exclusively manufactures and sells the product "Shine & Shine", which is exempt from GST. Happy Ltd. sells "Shine & Shine" only within Rajasthan. The turnover of Happy Ltd. in the previous year was ₹ 60 lakhs. Happy Ltd. purchased additional machinery (Capital Goods) for manufacturing "Shine & Shine" on 1st April, 2018. The invoice for supply of machinery also was issued on 1st April, 2018. The purchase price of the machinery was ₹ 25 lakh exclusive of CGST and SGST @ 12% (6% + 6%). On 1st December, 2018 exemption available on the product "Shine & Shine" was withdrawn by the Central Government and CGST and SGST @ 18% (9% + 9%) was imposed thereon. The turnover of Happy Ltd. on 30th September, 2018 was ₹ 45 lakh.

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Examine the issue and provide the answers (with supporting explanatory note for each answer) to the following :

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- (i) Does Happy Ltd. have to register under CGST Act, 2017 ?
- (ii) Can Happy Ltd. take Credit of tax paid on the machinery purchased ? If yes, what is the amount of Input Tax Credit (ITC) that can be availed ?

- (b) Divy Trader obtained permission for provisional assessment and supplied three consignments of furniture on 28th April, 2018. The tax payment on provisional basis was made in respect of all the three consignments on 20th May, 2018.

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Consequent to the final assessment order passed by the Assistant Commissioner on 21st June, 2018, a tax of ₹ 1,20,000 and ₹ 1,50,000 became refundable on 1st and 3rd consignments, whereas a tax of ₹ 1,20,000 became due on 2nd consignment. Divy Trader applies for the refund of the tax on 1st and 3rd consignments on 12th July, 2018 and pays the tax due on 2nd consignment on the same day. Tax was actually refunded to it of 1st consignment on 8th September, 2018, whereas of 3rd consignment on 18th September, 2018. Customers of Divy Trader who purchased the consignments have not taken Input Tax Credit (ITC).

Determine the interest payable and receivable, if any, under CGST Act, 2017 by Divy Trader.

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- (c) Rule 112 of the CGST Rules lays down that the appellant shall not be allowed to produce before the Appellate authority (AA) or the Tribunal any evidence, whether oral or documentary, other than the evidence produced by him during the course of the proceedings before the adjudicating authority or, as the case may be, the AA.

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What are the exceptional circumstances specified in the rule where the production of additional evidence will be allowed ? Can AA or the Tribunal direct production of any document or examination of any witness ?

- (d) Payal Company, a unit located in Agri Export Zone has made exports of machineries worth US \$ 30 lakh per annum (on an average) during the last three years and in the current year. It wants to export certain goods for export promotion on free of cost basis, which are worth ₹ 25 lakh. 1 US \$ = ₹ 50. Examine whether Payal Company can export, export promotion goods on free of cost basis as proposed ?

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5. (a) Mr. Sanjay of New Delhi made a request for a Motor cab to "Super ride" for travelling from New Delhi to Gurgaon (Haryana). After Mr. Sanjay pays the cab charges using his debit card, he gets details of the driver Mr. Jorawar Singh and the cab's registration number.

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"Super ride" is a mobile application owned and managed by D.T. Ltd. located in India. The application "Super ride" facilitates a potential customer to connect with the persons providing cab service under the brand name of "Super ride".

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D.T. Ltd. claims that cab service is provided by Mr. Jorawar Singh and hence, he is liable to pay GST under the provisions of Goods and Service tax laws.

With reference to the provisions of IGST Act, 2017, determine who is liable to pay GST in this case ?

Would your answer be different, if D.T. Ltd. is located in New York (USA) ? Also briefly state the statutory provisions involved.

- (b) Mr. Anant Kumar Gupta self-assessed his tax liability as ₹ 90,000 for the month of April 2018 but failed to make the payment.

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Subsequently the Department initiated penal proceedings against Mr. Anant Kumar Gupta for recovery of penalty under section 73 of CGST Act, 2017 for failure to pay GST and issued show cause notice on 10-08-2018 which was received by Mr. Anant Kumar Gupta on 14-08-2018.

Mr. Anant Kumar Gupta deposited the tax along with interest on 25/08/2018 and informed the department on the same day.

Department is contending that he is liable to pay a penalty of ₹ 45,000 (i.e. 50% of 90000).

Examine the correctness of the stand taken by the Department with reference to the provisions of the CGST Act, 2017, explain the relevant provisions in brief.

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- (c) Miss Nitya has following balances in her Electronic Cash Ledger as on 28/02/2018 as per GST portal. 5

Major Heads	Minor Heads	Amount (₹)
CGST	Tax	40,000
	Interest	1,000
	Penalty	800
SGST	Tax	80,000
	Interest	400
	Penalty	1,200
	Fee	2,000
IGST	Tax	45,000
	Interest	200
	Penalty	Nil

Her tax liability for the month of February, 2018 for CGST and SGST was ₹ 75,000 each. She failed to pay the tax and contacted you as legal advisor on 12/04/2018 to advise her as to how much amount of tax or interest she is required to pay, if any, by utilizing the available balance to the maximum extent possible as per GST Laws. She wants to pay the tax on 20-04-2018.

Other Information :-

- (i) Date of collection of GST was 18th February, 2018.
- (ii) No other transaction after this up to 20th April 2018.
- (iii) Ignore penalty for this transaction.
- (iv) No other balance is available.

You are required to advise her with reference to legal provisions with brief notes on the legal provisions applicable.

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- (d) In an order issued to SC Ltd., the adjudicating authority has confirmed a duty demand of ₹ 50 lakhs and imposed a penalty of equal amount under section 114A of the Customs Act, 1962. plus a penalty of ₹ 1 lakh under section 117 of the Customs Act, 1962. Their appeal to Commissioner (Appeals), challenging the duty demand and imposition of penalty after payment of required pre-deposit was dismissed. Now, they wish to file an appeal before CESTAT.

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Indicate the amount they paid when they filed appeal before the Commissioner (Appeals) and they are required to pay towards pre deposit for filing the appeal under section 129E of the Customs Act, 1962 before the Customs, Excise, and Service Tax Appellate Tribunal :

- (a) if they dispute their liability to pay duty and penalties;
(b) if they accept the duty liability but dispute the imposition of penalties.

Briefly explain the legal provisions relating to pre-deposit for appeals before first appellate authority and CESTAT.

6. (a) Briefly explain the procedure to be followed by the Authority for Advance Ruling on receipt of the application for Advance Ruling under section 98 of CGST Act, 2017.

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- (b) What are the duties of National Anti-profiteering Authority enumerated in the CGST Act ?

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- (c) Explain the difference between Audit by Tax Authorities under section 65 and Special Audit under section 66 of the CGST Act, 2017. **5**
- (d) In January, 2018, Rock & Rock India Ltd. imported a consignment from U.S.A (by sea). The value of consignment was ₹ 7,50,000 and total duty payable was ₹ 1,50,000. **5**

Company filed bill of entry for home consumption but before inspection and clearance for home consumption it found that the goods were damaged.

On filing a representation to the Customs Department, proper officer refused the claim for abatement because goods were already unloaded. The proper officer is in agreement with the claim that the value of goods has come down to only ₹ 1,50,000.

Examine the issue with reference to the relevant statutory provisions and calculate the amount of total duty payable :

Would your answer be different in the above case if the goods get deteriorated after unloading and examination but before clearance for home consumption, and value comes down to ₹ 7,00,000 ?

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